

ASSEMBLY BILL

No. 2796

Introduced by Assembly Member Shelley

February 25, 2002

An act to amend Sections 17920.3, 17961, and 124130 of, and to add Sections 105251, 105252, 105253, 105254, 105255, and 105256 to, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2796, as introduced, Shelley. Health: budget implementation.

Existing law, the State Housing Law, defines a “substandard building” to include any building in which there is a danger to human life or health, as specified. A violation of the State Housing Law is punishable as a misdemeanor.

This bill would add the existence of lead hazards, as defined by regulation, to the list of dangerous conditions that constitute a substandard building. By increasing the scope of an existing crime, the bill would create a state-mandated local program.

Existing law, under these provisions, requires a housing department, or if there is no housing department, a health department, of a city, county, or city and county, and a county-authorized environmental agency to enforce state housing laws within its jurisdiction.

This bill would authorize the State Department of Health Services, a health department of a city, county, or city and county, or a county-authorized environmental agency, in addition to, a local housing department, to enforce within its jurisdiction a lead hazard that would constitute a substandard building under this bill.

Existing law establishes within the State Department of Health Services a program to meet the federal requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the Housing and Community Development Act of 1992 and requires the adoption of regulations for this purpose.

This bill would make it a crime for a person to engage in specified activities related to lead-related construction courses and certification and lead-related abatement and lead-hazard evaluation, out of compliance with the regulations of the department. The bill would also make it a crime to interfere, as provided under the bill, with the department's or a local enforcement agency's efforts to monitor compliance with these provisions. Because the bill would create new crimes, it would impose a state-mandated local program.

The bill would prohibit a person from performing lead-related construction work on any residential or public building in a manner that creates a lead hazard. The bill would authorize the department or a local enforcement agency to order the abatement of a lead hazard or to order a person to cease and desist activities creating a lead hazard.

Existing law requires a medical laboratory to report blood lead findings above a specified level to the department.

This bill would revise these reporting requirements.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17920.3 of the Health and Safety Code
- 2 is amended to read:
- 3 17920.3. Any building or portion thereof including any
- 4 dwelling unit, guestroom or suite of rooms, or the premises on
- 5 which the same is located, in which there exists any of the
- 6 following listed conditions to an extent that endangers the life,



1 limb, health, property, safety, or welfare of the public or the
2 occupants thereof shall be deemed and hereby is declared to be a
3 substandard building:

4 (a) Inadequate sanitation shall include, but not be limited to, the
5 following:

6 (1) Lack of, or improper water closet, lavatory, or bathtub or
7 shower in a dwelling unit.

8 (2) Lack of, or improper water closets, lavatories, and bathtubs
9 or showers per number of guests in a hotel.

10 (3) Lack of, or improper kitchen sink.

11 (4) Lack of hot and cold running water to plumbing fixtures in
12 a hotel.

13 (5) Lack of hot and cold running water to plumbing fixtures in
14 a dwelling unit.

15 (6) Lack of adequate heating.

16 (7) Lack of, or improper operation of required ventilating
17 equipment.

18 (8) Lack of minimum amounts of natural light and ventilation
19 required by this code.

20 (9) Room and space dimensions less than required by this code.

21 (10) Lack of required electrical lighting.

22 (11) Dampness of habitable rooms.

23 (12) Infestation of insects, vermin, or rodents as determined by
24 the health officer.

25 (13) General dilapidation or improper maintenance.

26 (14) Lack of connection to required sewage disposal system.

27 (15) Lack of adequate garbage and rubbish storage and
28 removal facilities as determined by the health officer.

29 (b) Structural hazards shall include, but not be limited to, the
30 following:

31 (1) Deteriorated or inadequate foundations.

32 (2) Defective or deteriorated flooring or floor supports.

33 (3) Flooring or floor supports of insufficient size to carry
34 imposed loads with safety.

35 (4) Members of walls, partitions, or other vertical supports that
36 split, lean, list, or buckle due to defective material or deterioration.

37 (5) Members of walls, partitions, or other vertical supports that
38 are of insufficient size to carry imposed loads with safety.



- 1 (6) Members of ceilings, roofs, ceilings and roof supports, or
2 other horizontal members which sag, split, or buckle due to
3 defective material or deterioration.
- 4 (7) Members of ceiling, roofs, ceiling and roof supports, or
5 other horizontal members that are of insufficient size to carry
6 imposed loads with safety.
- 7 (8) Fireplaces or chimneys which list, bulge, or settle due to
8 defective material or deterioration.
- 9 (9) Fireplaces or chimneys which are of insufficient size or
10 strength to carry imposed loads with safety.
- 11 (c) Any nuisance.
- 12 (d) All wiring, except that which conformed with all applicable
13 laws in effect at the time of installation if it is currently in good and
14 safe condition and working properly.
- 15 (e) All plumbing, except plumbing that conformed with all
16 applicable laws in effect at the time of installation and has been
17 maintained in good condition, or that may not have conformed
18 with all applicable laws in effect at the time of installation but is
19 currently in good and safe condition and working properly, and
20 that is free of cross connections and siphonage between fixtures.
- 21 (f) All mechanical equipment, including vents, except
22 equipment that conformed with all applicable laws in effect at the
23 time of installation and that has been maintained in good and safe
24 condition, or that may not have conformed with all applicable laws
25 in effect at the time of installation but is currently in good and safe
26 condition and working properly.
- 27 (g) Faulty weather protection, which shall include, but not be
28 limited to, the following:
- 29 (1) Deteriorated, crumbling, or loose plaster.
- 30 (2) Deteriorated or ineffective waterproofing of exterior walls,
31 roof, foundations, or floors, including broken windows or doors.
- 32 (3) Defective or lack of weather protection for exterior wall
33 coverings, including lack of paint, or weathering due to lack of
34 paint or other approved protective covering.
- 35 (4) Broken, rotted, split, or buckled exterior wall coverings or
36 roof coverings.
- 37 (h) Any building or portion thereof, device, apparatus,
38 equipment, combustible waste, or vegetation that, in the opinion
39 of the chief of the fire department or his deputy, is in such a
40 condition as to cause a fire or explosion or provide a ready fuel to



1 augment the spread and intensity of fire or explosion arising from
2 any cause.

3 (i) All materials of construction, except those which are
4 specifically allowed or approved by this code, and which have
5 been adequately maintained in good and safe condition.

6 (j) Those premises on which an accumulation of weeds,
7 vegetation, junk, dead organic matter, debris, garbage, offal,
8 rodent harborages, stagnant water, combustible materials, and
9 similar materials or conditions constitute fire, health, or safety
10 hazards.

11 (k) Any building or portion thereof that is determined to be an
12 unsafe building due to inadequate maintenance, in accordance
13 with the latest edition of the Uniform Building Code.

14 (l) All buildings or portions thereof not provided with adequate
15 exit facilities as required by this code, except those buildings or
16 portions thereof whose exit facilities conformed with all
17 applicable laws at the time of their construction and that have been
18 adequately maintained and increased in relation to any increase in
19 occupant load, alteration or addition, or any change in occupancy.

20 When an unsafe condition exists through lack of, or improper
21 location of, exits, additional exits may be required to be installed.

22 (m) All buildings or portions thereof that are not provided with
23 the fire-resistive construction or fire-extinguishing systems or
24 equipment required by this code, except those buildings or
25 portions thereof that conformed with all applicable laws at the time
26 of their construction and whose fire-resistive integrity and
27 fire-extinguishing systems or equipment have been adequately
28 maintained and improved in relation to any increase in occupant
29 load, alteration or addition, or any change in occupancy.

30 (n) All buildings or portions thereof occupied for living,
31 sleeping, cooking, or dining purposes that were not designed or
32 intended to be used for those occupancies.

33 (o) Inadequate structural resistance to horizontal forces.

34 (p) *“Lead hazards” within the meaning of the regulations in*
35 *Chapter 8 (commencing with Section 35001) of Division 1 of Title*
36 *17 of the California Code of Regulations adopted by the State*
37 *Department of Health Services pursuant to Sections 105250 and*
38 *124160.*

39 “Substandard building” includes a building not in compliance
40 with Section 13143.2.

1 However, a condition that would require displacement of sound
2 walls or ceilings to meet height, length, or width requirements for
3 ceilings, rooms, and dwelling units shall not by itself be considered
4 sufficient existence of dangerous conditions making a building a
5 substandard building, unless the building was constructed, altered,
6 or converted in violation of those requirements in effect at the time
7 of construction, alteration, or conversion.

8 SEC. 2. Section 17961 of the Health and Safety Code is
9 amended to read:

10 17961. (a) The housing department or, if there is no housing
11 department, the health department, of every city, county or city and
12 county, or any environmental agency authorized pursuant to
13 Section 101275, shall enforce within its jurisdiction all of this part,
14 the building standards published in the State Building Standards
15 Code, and the other rules and regulations adopted pursuant to this
16 part pertaining to the maintenance, sanitation, ventilation, use, or
17 occupancy of apartment houses, hotels, or dwellings. The health
18 department or the environmental agency may, in conjunction with
19 a local housing department, enforce within its jurisdictions all of
20 this part, the building standards published in the State Building
21 Standards Code, and the other rules and regulations adopted
22 pursuant to this part pertaining to the maintenance, sanitation,
23 ventilation, use, or occupancy of apartment houses, hotels or
24 dwellings, provided the agencies shall not duplicate enforcement
25 activities.

26 (b) *Notwithstanding subdivision (a), the State Department of*
27 *Health Services, the health department of every city, county, or city*
28 *and county, or any environmental agency authorized pursuant to*
29 *Section 101275, may, in addition to the local housing department,*
30 *if any, enforce within its jurisdictions the provisions of subdivision*
31 *(p) of Section 17920.3.*

32 SEC. 3. Section 105251 is added to the Health and Safety
33 Code, to read:

34 105251. For purposes of this chapter, the following
35 definitions shall apply:

36 (a) The following terms shall have the same meaning as
37 contained in Chapter 8 (commencing with Section 35001) of
38 Division 1 of Title 17 of the California Code of Regulations
39 adopted by the State Department of Health Services pursuant to
40 Sections 105250 and 124160: “abatement,” “accredited training

1 provider,” “certificate,” “course completion form,”
2 “DHS-approved course,” “lead hazard,” “lead-hazard
3 evaluation,” “lead-related construction work,” “public
4 building,” and “residential building.”

5 (b) “Department” means the State Department of Health
6 Services.

7 (c) “Local enforcement agency” means the health department,
8 environmental agency, housing department, or building
9 department of any city, county, or city and county.

10 SEC. 4. Section 105252 is added to the Health and Safety
11 Code, to read:

12 105252. (a) It is unlawful for any person to offer lead-related
13 construction courses to meet department certificate requirements
14 unless that person is an accredited training provider as specified in
15 regulations adopted by the department pursuant to Section
16 105250.

17 (b) It is unlawful for any person to issue, or offer to issue, a
18 lead-related construction course completion form to any person
19 except upon successful completion by that person of a
20 DHS-approved course.

21 (c) The department or any local enforcement agency,
22 consistent with Section 17972, may enter, inspect, and photograph
23 any premises or facilities, and inspect and copy any business
24 record, where any accredited training provider, or any person who
25 offers lead-related construction courses or issues lead-related
26 construction course completion forms, conducts business to
27 determine whether the person is complying with this section.

28 (d) It is unlawful for any person who is an accredited training
29 provider or who offers lead-related construction courses or issues
30 lead-related construction completion forms, to refuse entry or
31 inspection, the taking of photographs or other evidence, or access
32 to copying of any record as authorized by this section, or to conceal
33 or withhold evidence.

34 (e) A violation of this section shall be punishable by
35 imprisonment for not more than six months in the county jail, a
36 fine of not more than one thousand dollars (\$1,000), or both the
37 imprisonment and fine.

38 (f) Notwithstanding subdivision (f) of Section 1464 of the
39 Penal Code, any state penalties paid for violation of this section
40 shall be paid into the General Fund.

1 SEC. 5. Section 105253 is added to the Health and Safety
2 Code, to read:

3 105253. (a) Any person issued a certificate by the
4 department to conduct lead-related construction work, abatement,
5 or lead-hazard evaluation, shall comply with regulations adopted
6 by the department pursuant to Sections 105250 and 124160.

7 (b) It is unlawful for any person to do either of the following:

8 (1) Falsely represent himself or herself as possessing a
9 certificate issued by the department to conduct lead-related
10 construction work, abatement, or lead-hazard evaluation.

11 (2) Submit false information or documentation to the
12 department in order to obtain or renew a certificate to conduct
13 lead-related construction work, abatement, or lead-hazard
14 evaluation.

15 (c) The department or any local enforcement agency,
16 consistent with Section 17972, may enter, inspect, and photograph
17 any premises or facilities, and inspect and copy any business
18 record, where any person issued a certificate by the department to
19 perform lead-related construction work conducts business to
20 determine whether the person is complying with this section.

21 (d) It is unlawful for any person who is issued a certificate by
22 the department to conduct lead-related construction work, to
23 refuse entry or inspection, the taking of photographs or other
24 evidence, or access to copying of any record as authorized by this
25 section, or to conceal or withhold evidence.

26 (e) A violation of this section shall be punishable by
27 imprisonment for not more than six months in the county jail, a
28 fine of not more than one thousand dollars (\$1,000), or both the
29 imprisonment and fine.

30 (f) Notwithstanding subdivision (f) of Section 1464 of the
31 Penal Code, any state penalties paid for violation of this section
32 shall be paid into the General Fund.

33 SEC. 6. Section 105254 is added to the Health and Safety
34 Code, to read:

35 105254. (a) It is unlawful for any person to perform
36 abatement or a lead-hazard evaluation except as specified in
37 regulations adopted by the department pursuant to Sections
38 105250 and 124160.

39 (b) The department or any local enforcement agency,
40 consistent with Section 17972, may enter, inspect, and photograph

1 any premises where abatement or a lead-hazard evaluation is being
2 conducted or has been ordered, enter the place of business of any
3 person who conducts abatement or lead-hazard evaluations, and
4 inspect and copy any business record of any person who conducts
5 abatement or lead-hazard evaluations to determine whether the
6 person is complying with this section.

7 (c) It is unlawful for any person who conducts or offers to
8 conduct abatement or lead-hazard evaluations to refuse entry or
9 inspection, the taking of photographs or other evidence, or access
10 to copying of any record as authorized by this section, or to conceal
11 or withhold evidence.

12 (d) A violation of this section shall be punishable by
13 imprisonment for not more than six months in the county jail, a
14 fine of not more than one thousand dollars (\$1,000), or both the
15 imprisonment and fine.

16 (e) Notwithstanding subdivision (f) of Section 1464 of the
17 Penal Code, any state penalties paid for violation of this section
18 shall be paid into the General Fund.

19 SEC. 7. Section 105255 is added to the Health and Safety
20 Code, to read:

21 105255. (a) No person shall perform lead-related
22 construction work on any residential or public building in a
23 manner that creates a lead hazard.

24 (b) The department and any local enforcement agency,
25 consistent with Section 17972, may enter, inspect, and photograph
26 any premises where lead-related construction work is being
27 performed, enter the place of business of any person who performs
28 lead-related construction work, and inspect and copy any business
29 record of any person who performs lead-related construction work
30 to determine whether the person is complying with this section and
31 any regulations adopted pursuant to this section or Sections
32 105250 and 124160.

33 (c) It is unlawful for any person who performs lead-related
34 construction work to refuse entry or inspection, the taking of
35 photographs or other evidence, or access to copying of any record
36 as authorized by this section, or to conceal or withhold evidence.

37 (d) A violation of this section shall be punishable by a fine not
38 to exceed one thousand dollars (\$1,000). Any penalties under this
39 section shall be in addition to any other penalty or remedy
40 provided by law.

(e) Notwithstanding subdivision (f) of Section 1464 of the Penal Code, any state penalties paid for violation of this section shall be paid into the General Fund.

SEC. 8. Section 105256 is added to the Health and Safety Code, to read:

105256. Notwithstanding any other provision of law, whenever the department or a local enforcement agency determines that a condition at a location or premises, or the activity of any person at the location or premises, is creating or has created a lead hazard at the location or premises, the department or the local enforcement agency may order the owner of the location or premises to abate the lead hazard, and may order the person whose activity is creating or has created the lead hazard, to cease and desist. It is unlawful for any person to refuse to obey any order issued pursuant to this subdivision.

SEC. 9. Section 124130 of the Health and Safety Code is amended to read:

124130. (a) ~~All medical laboratories—A laboratory that performs a blood lead analysis on a specimen of human blood drawn in California shall report the results to the department—each detected case of a blood lead level greater than 25 in micrograms of lead per deciliter of human blood or the equivalent standard as measured in micrograms of protoporphyr in per gram of hemoglobin. The blood lead findings, the names, ages, and addresses of the patients involved in each detected case and any additional information necessary to implement this article shall be reported to the department in a manner prescribed by the director.~~

(b) *The analyzing laboratory shall report all of the following:*

(1) *The name, birth date, gender, and address of the person tested and a telephone number, if any, by which the person may be reached.*

(2) *The name, address, and telephone number of the person's employer, if any.*

(3) *The name, address, and telephone number of the health care provider who ordered the analysis.*

(4) *The name, address, and telephone number of the analyzing laboratory.*

(5) *The date the specimen was drawn.*

(6) *The source of the specimen, such as venous, capillary, arterial, or cord blood.*

(7) *The accession number of the specimen.*

(8) *The date the analysis was performed.*

(9) *Any additional data that the department, by regulation, may specify.*

(c) *If the result of the blood lead analysis is a blood lead level equal to or greater than 10 micrograms of lead per deciliter of blood, the report required by this section shall be submitted within one working day of the analysis. If the result is less than 10 micrograms per deciliter, the report required by this section shall be submitted within 30 calendar days.*

(d) *Commencing January 1, 2003, a report required by this section shall be submitted by hand, courier, postal mail, facsimile, or by electronic transfer. Commencing January 1, 2005, a report required by this section shall be submitted by electronic transfer.*

(e) *All information reported pursuant to this section shall be confidential, as provided in Section 100330, except that the department may share the information with the local health department, environmental health agency authorized pursuant to Section 101275, or housing department that is responsible for enforcing the provisions of subdivision (p) of Section 17920.3 for the sole purpose of surveillance, case management, investigation, environmental assessment, environmental remediation, or abatement. The local health department, environmental health agency, or housing department shall otherwise maintain the confidentiality of the information in the manner provided in Section 100330.*

~~(e) All medical laboratories testing for blood lead levels shall participate in a blood lead and free erythrocyte protoporphyrin (FEP) proficiency testing program.~~

~~(d)~~

(f) *Laboratories that fail to meet reporting requirements will shall be assessed fines of up to five hundred dollars (\$500) at the discretion of the director, for each blood lead analysis the laboratory fails to report as required by this section.*

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 SEC. 11. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order to make necessary statutory changes to implement the
9 Budget Act of 2002 at the earliest possible time, it is necessary that
10 this act go into immediate effect.

